

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

CORNHUSKER ENERGY LEXINGTON	)	
LLC, a Nevada Limited Liability Co.,	)	
	)	
Plaintiff,	)	8:04CV586
	)	
vs.	)	ORDER
	)	
PROSPECT STREET VENTURES,	)	
	)	
Defendant.	)	

This matter is before the Court on the plaintiff's Motion for Leave to File Amended Complaint (Filing No. 22). The plaintiff attached a copy of the proposed complaint to the motion. **See** Filing No. 22, Exhibit A. The plaintiff seeks to amend the complaint to include additional claims. Since the defendant has not yet filed an answer, the plaintiff is allowed to make the amendment as a matter of course. **See** Fed.R. Civ. P. 15(a).<sup>1</sup> Upon consideration,

**IT IS ORDERED:**

1. The plaintiff's Motion for Leave to File Amended Complaint (Filing No. 22) is granted.
2. The plaintiff shall have to **on or before May 25, 2005**, to file the amended complaint.

Dated this 16th day of May, 2005.

BY THE COURT:

s/Thomas D. Thalken  
United States Magistrate Judge

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<sup>1</sup>Leave of court is not required for plaintiff to file an amended complaint. Rule 15 (a) provides that "(a) party may amend his pleading once as a matter of course at any time before a responsive pleading is served." Fed. R. Civ. P. 15(a). "A motion to dismiss is not a 'responsive pleading' for purposes of this rule." **See Winfrey v. Brewer**, 570 F.2d 761, 764 n.4 (8th Cir. 1978); **see Stein v. Royal Bank of Canada**, 239 F.3d 389, 392 (1st Cir. 2001); **see also** Fed. R. Civ. P. 7(a).